

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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AVL POWERTRAIN ENGINEERING, INC.,

Plaintiff,

ORDER

v.

14-cv-877-wmc

FAIRBANKS MORSE ENGINE, a division of  
COLTEC INDUSTRIES, INC.,

Defendant.

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This case is set for a jury trial commencing April 25, 2016. Consistent with the parties' oral argument and rulings by the court during the final pretrial conference, the court enters the following.

IT IS ORDERED that:

- 1) Plaintiff may have until the end of the day on Wednesday, April 20, 2016, to file its complete Rule 26 disclosure, as well as subsequent disclosures during discovery of its witness Dmitri Kazarinoff's knowledge regarding the notice of nonrenewal, including any supporting brief as to why its disclosure provided sufficient fair notice of the subject matter of Kazarinoff's expected testimony on this subject, with any response by defendant due by the end of the day on Thursday, April 21, 2016.
- 2) Plaintiff may have until Friday, April 22, 2016, to file a brief as to whether interest calculated as part of lost profits, consequential or other incidental damages is allowed under Wisconsin law, with any response by defendant due by Tuesday, April 26, 2016.
- 3) Defendant may have until the end of the day on Wednesday, April 20, 2016, to file a brief concerning the relevance of the parties' exhibits regarding the routing of exhaust stacks, with any response by plaintiff due on or before Thursday, April 21, 2016.
- 4) Defendant may have until Friday, April 22, 2016, to file a proffer as to any extrinsic evidence of the meaning of Section 11.1 it intends to introduce at

trial, with any response by plaintiff due on or before Tuesday, April 26, 2016.

- 5) By noon on Thursday, April 21, 2016, the parties shall consult with one another and file: (1) a joint witness list pared-down to the extent possible; (2) plaintiff's proponent deposition designations, with proponent designations, counter-designations and objections clearly marked as such on the applicable pages of that transcript; and (3) any of defendant's proponent deposition designations that have been completed, with proponent designations, counter-designations and objections also clearly marked on the applicable transcript pages.
- 6) By the end of the day on Wednesday, April 20, 2016, the parties may file briefs concerning the relevance of any of FME's expert Clayton Raasch's opinions on the EPA consent decree.
- 7) The court will hold a telephonic conference at 2:30 P.M. on Thursday, April 21, 2016, to discuss: (a) defendant's contested exhibits; (b) deposition designations and counter-designations for witnesses called in plaintiff's case-in-chief; and (c) deposition designations and counter-designations that have been completed for witnesses called in defendant's rebuttal case. Plaintiff's counsel is to initiate the call.

Entered this 20th day of April, 2016.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge